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Society can curtail it whenever it sees fit, and in allowing workers to do so and so, it gives a right." "The only basis of social rights acceptable to modern thinking is social welfare and social will." "We do not know enough about the nature of society and the laws of developmental ends to determine what is ultimately for the best. We are thrown back, therefore, for the sources and sanctions of rights to the social will. Society alone can give social rights; society alone can take them away. What society allows are rights." "Practically social rights are the rules of the game of the dominant class, but social rights thus granted have no necessary moral sanction."

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*Wage-Payment Legislation in the United States.* By ROBERT GILDERSLEEVE PATERSON. Bulletin of the United States Bureau of Labor Statistics, Whole Number 229. Labor Laws of the United States Series, No. 12. December, 1917. (Washington: Superintendent of Documents. 1918. Pp. 186.)

The headings under which the author has collected and classified the statutes affecting the payment of wages in the United States show the extent of his research. He studies rate, period and mode of payment of wages; restrictions on the employment contract, that is, statutes authorizing payment of wages to deceased and discharged employees; deductions from, refusal to pay, reduction of and place of payment of wages; protection of mine labor in regard to the weighing of coal in mines and screening; and the repayment of wages advanced to employees. In addition to this exhaustive collection of statutes is an examination of a number of cases on the constitutionality of wage payment legislation to determine how far the courts have stood in the way of progressive labor legislation under the influence of the individualistic theory of the freedom of contract.

The author introduces his study with a brief comment on the labor contract in English and American law and on the development of the theory of individualism, to the existing influence of which, in the minds of the judges, he ascribes much of the backwardness of our labor law. And he closes the book with chapters on the growing recognition of the importance of the social ideal in our modern industrial civilization as against the laissez faire doctrine of the early nineteenth century.

The author notes with approval the more liberal attitude of the courts toward the increasing bulk of wage payment legislation and questions uncontrolled freedom of contract as a constitutional right. Perhaps the best comment on the difficulty which he has with this question is Judge Day's remark, quoted in another connection on page 142: "This court [the United States Supreme Court] has so often affirmed the right of the state . . . to place reasonable restrictions . . . on the freedom of contract that we need only to refer to some of the cases in passing."

The reviewer thinks that the author overstates the unwillingness of the courts to consider facts or economic conditions in determining the reasonableness and so the constitutionality of cases affecting labor relations (p. 30). His own quotations, while in many cases amply supporting his just criticism, show very frequently a wholly different point of view. (See, for example, pp. 56, 60, 72, 107, 111.) Particularly is this true of the United States Supreme Court in recent years, as he himself admits on page 162. The cases cited in the footnote on page 176 are so convincing a proof of the correctness of the author's appreciation of the labor law position of the Supreme Court that they might well have been given greater prominence. Since the Supreme Court has become so comparatively liberal, it is of greater importance that the statute of 1914 authorizing the court to review cases, decided by state courts against the validity of a state law claimed to be repugnant to the Constitution of the United States, be emphasized; and the error in this regard on page 26 should be corrected in the text rather than in a note. In general the reviewer agrees "that the outlook for wage payment legislation . . . cannot be considered discouraging. We have still the possibility of reactionary decisions . . . but with the development of a public opinion more favorable to the real rights of man as against the rights of property, even such failure by the courts to realize the demands of our industrial life will become less frequent if they do not disappear."

The author's constitutional theory is not always easy to understand. In the section on "organization of the courts" (p. 25), he does not seem to realize that it is not the courts but the system of separate state governments, each with its own constitution and legislature as well as its own judiciary, which is at the bottom of our "diversity of law." The United States courts are bound to follow, not lead, each state court in interpreting the state constitution and it is the different spirit in the population of the several

states which in the last analysis is to blame for this diversity. It is not the fault or the merit of the courts that in Massachusetts and Illinois there are stringent child labor laws, while in the South there is very limited protection for children. With the comparative ease of amendment of state constitutions, it is the people of the state rather than the courts who must bear the principal blame for permitting a state constitution to stand in the way of liberal labor legislation.

The implication on page 144 that an American constitution is "a frame of government" is rather surprising in a writer who has been discussing the fourteenth amendment and other provisions which deal with the reserved rights of persons and property. He should also have noted that the United States decision in the Paul case went off on a question that had nothing to do with the particular point decided by the Indiana court in the Schuler case (p. 122). As the Indiana court, in fact, relied on the United States decision, distinguished and upheld in the Paul case, it is scarcely just to say that the Supreme Court decisions have no weight with the Indiana tribunal.

The author would have made his work more valuable had he distinguished more sharply between cases holding wage-payment legislation unconstitutional as unreasonable classification and those in which the freedom of contract or inviolability of property and personal rights was made the basis of the decision. The very useful chronological tables of cases at the end of each chapter would be far more valuable if he were more careful in distinguishing the grounds of the decisions for these and other reasons. For instance, a California decision, *re Crane*, tabulated as holding a wage statute unconstitutional (p. 93), in fact condemns the statute as authorizing imprisonment for debt (p. 91). This is not an "objection on a broad theoretical ground" not allowing for "the changed facts of industry," which he attributes to all decisions holding statutes unconstitutional. See also *State v. Ferguson* (p. 116), which held a Louisiana act unconstitutional owing to a defective title (p. 114). Such cases should have been distinguished from those holding wage statutes bad on account of principle, particularly in view of the broad statements with which the author prefaces his tables.

The author is mistaken in his reading of *Cumberland Glass Manufacturing Co. v. State*, 58 N. J. 224. The court did not enforce the act but dismissed a complaint under it against the

agent of the corporation, because the act did not apply to the agent, and expressly reserved the question of constitutionality (p. 113).

Every student of labor legislation will be grateful to the author for his diligence in collecting and classifying the material presented and it is to be hoped that all the various phases of labor legislation will be so treated and the treatment kept up to date.

J. P. CHAMBERLAIN.

#### NEW BOOKS

BAGGE, G. *Arbetslönens Reglering genom Sammanslutningar. Akademisk Afhandling.* (Stockholm: A.B. Nordiska. 1917. Pp. xvi, 483. 5 kr.)

BEMAN, L. T. *Selected articles on the compulsory arbitration and compulsory investigation of industrial disputes.* Third edition, revised and enlarged. Debaters' handbook series. (White Plains, N. Y.: Wilson. 1918. Pp. 71, 223. \$1.25.)

BURRITT, A. W., DENNISON, H. S., and others. *Profit sharing, its principles and practice. A collaboration.* (New York: Harper. 1918. Pp. x, 328. \$2.50.)

HENDERSON, A. *The aims of labour.* (London: Headley Bros. 1918. 1s.)

HOBSON, S. G. *Guild principles in war and peace.* (London: Bell. 1918. 2s. 6d.)

Among other topics discusses unemployment after the war.

JOLY, H. *La question du travail des femmes; ses perspectives nouvelles.* (Paris: Dunot & Pinat. 1918. Pp. 18. 1.50 fr.)

ODENCRANTZ, L. C. and POTTER, Z. L. *Industrial conditions in Springfield, Illinois. A survey by the committee on women's work and the department of surveys and exhibits, Russell Sage Foundation.* Springfield survey, no. 8. (New York: Department of Surveys and Exhibits, Russell Sage Foundation. 1916. Pp. 173. 25c.)

The study was made with the purpose of picturing "industry in Springfield from the angle of social welfare," and it has three distinct values: it portrays the Springfield citizen in industry; it sketches life in its relation to industry in an American city of 50,000 inhabitants; and it commends itself to every progressive American city as the thing to do to insure advance.

Assuming well established standards as to hours of labor, child labor, wages, and protective measures, it proceeds to test conditions in Springfield, to point the deviations from the normal standards, and to make recommendations for betterment. The report supplies the citizen and the employer with background information which he needs to have, it tells the story of things as they are in Springfield today, and it instructs the city as to what it ought to do and how to